

**BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: March 15, 2006

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Planning

Staff Contact Person: Jose Papa

**AGENDA ITEM WORDING:**

Public hearing to consider adopting an Ordinance amending the Monroe County Land Development Regulations by revising Section 9.5-124 through 9.5-124.8 [Non-Residential Rate of Growth Ordinance (NROGO)] utilizing the Tier Overlay as the basis for the competitive point system.

**[2nd of 2 required public hearings]**

**ITEM BACKGROUND:** On January 21, 2004 and in Ordinance # 018-2004 the BOCC directed staff to prepare draft text and map amendments and other supporting studies in order to effectuate the provisions of Goal 105 of the 2010 Comprehensive Plan and Rule 28-20.100 F.A.C. Several stakeholder forums and two community workshops were held and the Planning Commission reviewed the staff draft at four public hearings, amended the draft and recommend approval. The draft ordinance has been revised by staff to reflect the direction given the staff by the Board at the May and June 2005 public hearing.

Other changes to the Ordinance since the previous public hearings are based on comments from the Dept. of Community Affairs.

**PREVIOUS RELEVANT BOCC ACTION:**

Ordinance No. 018-2004 adopted June 16, 2004 directed staff to prepare text and map amendments to implement Goal 105. Goal 105 was adopted in Ordinance No. 20- 2002.

**CONTRACT/AGREEMENT CHANGES:** None.

**STAFF RECOMMENDATIONS:** Approval

**TOTAL COST:** N/A

**BUDGETED:** Yes N/A No ☐

**COST TO COUNTY:** N/A

**SOURCE OF FUNDS:** N/A

**REVENUE PRODUCING:** Yes N/A No ☐ **AMOUNT PER MONTH** N/A **Year** ☐

**APPROVED BY:** County Atty X OMB/Purchasing ☐ Risk Management ☐

**DIVISION DIRECTOR APPROVAL:**

  
Ronda Norman

**DOCUMENTATION:** Included X

Not Required ☐

**DISPOSITION:** \_\_\_\_\_

**AGENDA ITEM #** \_\_\_\_\_

**ORDINANCE NO. 2006**

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO REVISE SECTIONS 9.5-124 THROUGH 9.5-124.8 NON-RESIDENTIAL RATE OF GROWTH ORDINANCE (NROGO) OF THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS UTILIZING THE TIER OVERLAY AS THE BASIS FOR THE COMPETITIVE POINT SYSTEM; CREATING A SEPARATE NROGO SYSTEM FOR BIG PINE KEY AND NO NAME KEY; PROVIDING FOR SPECIFIC VESTING PROVISIONS; PROVIDING FOR REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES; DIRECTING THE PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO TRANSMIT A COPY OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; AND, PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Monroe County Board of County Commissioners, during eight public hearings held in December, 2004, January, February, March, April, May, and June 2005, and March 2005, reviewed and considered the proposed amendments to the Land Development Regulations to revise Sections 9.5-124 through 9.5-124.8 non-residential rate of growth ordinance (NROGO) of the Monroe County Land Development Regulations utilizing the tier overlay as the basis for the competitive point system; and

**WHEREAS**, the Monroe County Board of County Commissioners directed staff to prepare text and map amendments in Ordinance No. 018-2004 adopted June 16, 2004, to include Tier Overlay Map designations in accordance with Goal 105 and revisions to ROGO and NROGO based on the Tier system utilizing a positive approach that predominately relies on land dedication and aggregation; and

**WHEREAS**, the Monroe County Board of County Commissioners makes the following Findings of Fact:

1. Goal 105 provides a framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability.
2. The designation of Tiers will be implemented through an overlay of the County's Land Use District Map, that will be referred to as the "Tier Overlay District Map" in the County Code.
3. The adoption and amendments to the Tier Overlay District Map will be in accordance with procedures for amending the Land Development Regulations in Section 9.5-511, Monroe County Code.

4. The adoption of the Habitat Conservation Plan and Community Master Plan for Big Pine Key and No Name Key requires a non-residential allocation system (NROGO) for these islands that is separate from the County-wide system.

5. Additional incentives are needed in the current NROGO to encourage work force housing and additional opportunities for dedicating land or payment of fees in lieu of land dedication to enable the County to acquire conservation lands.

6. The Planning and Environmental Resources Department staff prepared a draft amendments to Chapter 9.5 (Land Development Regulations), Monroe County Code, in response to the direction provided by the Board of County Commissioners and consistent with proposed amendments to the Comprehensive Plan.

7. The Planning Commission, after hearing comments at four public hearings, made changes to the staff draft amendments and recommended approval on November 3, 2004, to the Board of County Commissioners of the proposed amendments to the Land Development Regulations to incorporate changes to the County's NROGO based on the Tier system.

8. The Planning and Environmental Resources Department has made minor changes to the proposed draft based on direction of the Planning Commission and public testimony at the public hearing before the Board of County Commissioners in December 2004, including minor text revisions to ensure readability and correct typographical errors or omissions in the text.

9. Subsequent to the adoption of amendments to the Comprehensive Plan by the Board of County Commissioners on September 22, 2005, the Planning and Environmental Resources Department prepared further amendments to the draft ordinance to ensure consistency with the adopted plan amendments.

10. The proposed NROGO is a positive system, awarding major points based on the Tier location of the property.

11. Positive points may be accrued by donating lots to the County for preservation in Tier I and Tier II (Big Pine Key and No Name Key) and Tier III for affordable housing and for payment of fees in the County's Land Acquisition Fund.

12. The current NROGO has thirteen criteria for assigning points, the proposed NROGO contains nine criteria, awarding major points for the Tier location of a property.

13. Additional points may be accrued by providing for employee housing on site, reducing intensity and through landscaping and water conservation.

14. A separate point system has been included for Big Pine Key and No Name Key that follows the requirements of the Habitat Conservation Plan permit application and the Livable CommuniKeys Program's Community Master Plan for the Islands.

15. The Board of County Commissioners has reviewed the proposed amendments to the Land Development Regulations as recommended by the Planning Commission and the Planning and Environmental Resources Department.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**

**Section 1.** The proposed amendments to the Land Development Regulations are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan, particularly Goal 105 and recently adopted set of comprehensive plan amendments to effectuate the Tier system.

**Section 2.** Section 9.5-124(b), Monroe County Code, is hereby amended to create a definition for “buildable lot or parcel” that reads as follows:

*“Buildable lot or parcel means the lot or parcel must contain a minimum of two thousand (2,000) square feet of uplands, including any disturbed wetlands that can be filled pursuant to this chapter.”*

**Section 3.** The definition of “Infill Site” in Section 9.5-124(b), Monroe County Code, is hereby deleted.

**Section 4.** Section 9.5-124.2 is hereby amended to read as follows:

**“Sec. 9.5-124.2 Type of development affected and special requirements.**

(a) The NROGO shall apply to the development of all new and expanded non-residential floor area, except as exempted by this division, for which a building permit or development approval is required by this chapter.

(b) Notwithstanding the provisions of section 9.5-4(D-8) development, the following new uses shall only be eligible for a NROGO allocation under this chapter on sites located within a designated Commercial Center Overlay area:

- (1) Commercial retail very high-intensity uses that generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area.
- (2) Storage areas as a principal use not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.
- (3) Outdoor retail sales areas on a vacant lot and any new or expanded outdoor retail sales associated with a lawfully established structure, existing on the effective date of this division, of less than five hundred (500) square feet of floor area, not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.
- (4) Commercial outdoor recreation uses.
- (5) Notwithstanding the provisions (1)-(4) above, the following new uses or change in use are prohibited on Big Pine Key/No Name Key:

- (a) Commercial retail high intensity uses that generate more than one hundred and fifty (150) trips per one thousand square feet of floor area.
- (b) Outdoor storage as a principal use.
- (c) Outdoor retail sales as a principal use.

(c) New or expanded outdoor retail sales associated with a lawfully established structure, existing on the effective date of this division, of at least five hundred (500) square feet of floor area, may be permitted with a minimum of a minor conditional use approval if located within a designated Tier III designated area.

(d) Enclosing of any canopies or drive-throughs in existence on or before September 19, 2001, shall require a NROGO allocation.

(e) The special standards established elsewhere in this chapter for a designated Commercial Center Overlay area or a specific Key(s) Overlay Zone, may supercede, modify, or supplement the standards established for NROGO in this division.

(f) Non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO pursuant to the following special conditions and standards:

- (1) A non-public institutional floor area and use, existing on the effective date of the issuance of the Incidental Take Permit for the Florida Key Deer and other covered species, may be expanded by two-thousand five hundred (2,500) square feet of floor area per NROGO year, provided that the land was owned by the institutional organization at the time of the issuance of the Incidental Take Permit. These allocations are to be made on a "first come, first served" basis.
- (2) New non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO .

(g) All new or expanded non-residential development on Big Pine Key and No Name Key is subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect NROGO allocations under this chapter. All new and expanded non-residential development shall be limited to scarified or disturbed lands and clearing of any pinelands and/or hammock is prohibited."

**Section 5.** Section 9.5-124.3 (a)(4), Monroe County Code, is hereby amended as follows:

- "(4) *Development activity for certain not-for-profit organizations:* Except for the non-public institutional uses on Big Pine Key and No Name Key pursuant to section 9.5-124.2, non-residential development activity within Tier III designated areas by federally tax exempt not-for-profit educational, scientific, religious, social, cultural and recreational organizations, which predominately serve the county's permanent population, if approved by the planning commission after review and recommendation by the planning director. This exemption is subject to the condition that a restrictive

covenant be placed on the property prior to the issuance of a building permit. The restrictive covenant shall run in favor of Monroe County for a period of at least twenty (20) years. Any change in the use or ownership of the property subject to this restrictive covenant shall require prior approval by the planning commission, unless the total floor area exempted by the planning commission is obtained through an off-site transfer of floor area and/or non-residential floor area allocation pursuant to this chapter. If the total amount of floor area that is transferred and/or allocated meets or exceeds the total amount of floor area exempted, the restrictive covenant shall be vacated by the County. This not-for-profit exemption is not applicable to non-residential development proposed within a Tier I designated area.”

**Section 6.** Section 9.5-124 .3 (a)(10) b., Monroe County Code, is hereby amended to read as follows:

- “i. Is located within a Tier III designated area, and if on Big Pine Key, is located within the designated Community Center Overlay area; and,
- ii. Is located within the same ROGO subarea as the sender site, except that for a receiver site on Big Pine Key, the sender site shall also be located on Big Pine or No Name Keys; and,
- iii. Is not a commercial very high intensity retail use which will generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area; and,
- iv. Is not located within a "V" special flood hazard zone; and
- v. Does not propose the clearing within a Tier III-A (Special Protection Area) designated area of any portion of an upland native habitat patch of one (1) acre or greater in area.”
- vi. If on Big Pine Key, shall not be in a more restrictive Tier category than the sender site and no transfer shall be allowed into Tier 1.

**Section 7.** Section 9.5-124.4(a) and (b), Monroe County Code, are hereby amended as follows:

“(a) *Maximum amount of available floor area for the annual non-residential ROGO allocations:* The maximum amount of floor area available for allocation under NROGO shall be determined by multiplying the number of residential permits available for the annual residential allocation period year by two hundred thirty-nine (239) square feet and rounding the product to the nearest one hundred (100) square feet. The maximum amount of available floor area for annual allocations shall be computed separately for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County. This maximum total may be adjusted as provided for in section 9.5-124.6(a). Except for Big Pine Key and No Name Key, for the first annual allocation period, the maximum amount of floor area that may be made available for allocation is to be based upon the

number of permits issued under ROGO, starting with the Third Quarter, ROGO Year 1 (starting April 14, 1993) through ROGO Year 9 (ending July 13, 2001) and number of ROGO allocations to be made in ROGO Year 10, reduced by the amount of non-residential floor area approved in permits, issued after the adoption of the comprehensive plan on April 15, 1993. Any remaining part of the maximum annual allocation not made available for allocation in an annual allocation period by the board of county commissioners in section 9.5-124.4(g) shall be carried over to the next annual allocation period.

(b) *Maximum allocation of non-residential floor area by site:* The amount of non-residential floor area to be allocated shall be limited to a maximum of two thousand five hundred (2,500) square feet for any one site, except for sites located within a designated Community Center Overlay area. For sites located within a Community Center Overlay area, the maximum allocation shall only be limited by the maximum floor area per structure in subsection (c) below.”

**Section 8.** Section 9.5-124.4, Monroe County Code, is hereby amended to create new Section 124.4 (i) and (j) that read as follows:

“(i) *First Allocations for Big Pine Key and No Name Key:* For the first allocation period (starting ROGO Year 15, Quarter 1), the maximum amount of floor area available for allocation shall be based on the number of permits issued under the 200 allocations authorized by the Big Pine Key and No Name Key Community Master Plan and the number of ROGO allocations to be made available in the ROGO Year 15 beginning July 14, 2006.

(j) *Separate Allocations for Big Pine Key and No Name Key:* Allocations for Big Pine Key and No Name Key shall be administered and awarded separately from those for the remainder of unincorporated Monroe County.”

**Section 9.** Section 9.5-124.6 (b)(1), Monroe County Code, is hereby amended as follows:

- “(1) Within thirty (30) days of an allocation date, unless otherwise extended by the planning commission, the planning director shall:
- a. Complete the evaluation of all allocation applications submitted during the relevant allocation period; and
  - b. Total the amount of square footage for which allocation applications have been received for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County; and
  - c. Rank the floor area allocation applications, in descending order from the highest evaluation point total to the lowest for each size classification for Big Pine and No Name Key and the remainder of unincorporated Monroe County.”

**Section 10.** Section 9.5-124.7(a) and (b), Monroe County Code, are hereby amended as follows:

“(a) *Eligibility:* An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:

- (1) The applicant has complied with all requirements of the non-residential permit system allocation system.
- (2) The subject application has not been withdrawn; and,
- (3) The subject application has been considered in the first four (4) consecutive annual allocation periods and has failed to receive an allocation award.

(b) *Application:* An application for administrative relief shall be made on a form prescribed by the director of planning and may be filed with the planning department no earlier than the conclusion of the fourth allocation period and no later than one hundred twenty (120) days following the close of the fourth annual allocation period.”

**Section 11.** Section 9.5-124.7(e), Monroe County Code, is hereby amended as follows:

“(e) *Public hearing:* At a public hearing, the board of county commissioners may review the relevant application and application evaluation ranking, taking testimony from county staff and others as may be necessary and review documentary evidence submitted by the applicant.”

**Section 12.** Section 9.5-124.7(f), Monroe County Code, is hereby created that reads as follows:

“(f) *Board action:* At the conclusion of the public hearing, the board may take any or a combination of the following actions:

- (1) Offer to purchase the property at fair market value as the preferred action if the property is location within:
  - a. a designated Tier I area;
  - b. a designated Tier II area (Big Pine Key and No Name Key);
  - c. a designated Tier III-A area (Special Protection Area); or
  - d. a designated Tier III area on a non-waterfront lot suitable for affordable housing.
- (2) Grant the applicant an allocation award for all or part of the non-residential floor area requested in the next allocation award as the preferred option for buildable properties not meeting the criteria in (1) above.
- (3) Suggest such other relief as may be necessary and appropriate.”

**Section 13.** Section 9.5-124.7, Monroe County Code, is hereby amended to read as follows:

“(a) *Evaluation point values:* The following point values established are to be applied cumulatively except where otherwise specified:



- (1) *Tier designation:* The following points are intended to discourage non-residential development in environmentally sensitive areas and areas without sufficient infrastructure and to direct and encourage non-residential development in appropriate infill areas, while recognizing that any development has affects on the carrying capacity of the Florida Keys:

<i>Point Assignment</i>	<i>Criteria</i>
0	An application which proposes non-residential development within an area designated Tier I [Natural Area], except for the expansion of existing, lawfully established non-residential floor area provided under "exception" below.
+10	An application which proposes non-residential development within an area designated Tier II [Transition and Sprawl Reduction Area] on Big Pine and No Name Key.
+10	An application which proposes non-residential development within an area designated Tier III-A (Special Protection Area) that proposes to clear any portion of an upland native habitat patch of one-acre or greater in size.
+20	An application which proposes non-residential development within an area designated Tier III [Infill Area].
	<i>Exception:</i>
	Any application for the expansion of existing, lawfully established non-residential floor area shall be assigned +20 points contingent upon no further clearing of upland native habitat and no addition to and/or expansion of the existing lot or parcel upon which the existing use is located.

- (2) *Intensity reduction:* The following points are intended to encourage the voluntary reduction of intensity:

<i>Point assignment:</i>	<i>Criteria:</i>
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+ 4	An application proposes development that reduces the permitted floor area ratio (FAR) to twenty three percent (23%) or less.
	<i>Additional requirement:</i>
	A legally binding restrictive covenant running in favor of Monroe County that restricts the floor area ratio of the property to a maximum of twenty three percent (23%) for a period of ten (10) years shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.

- (3) *Land dedication:* The following points are intended to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II (Big Pine Key and No Name Key) areas for the purposes of conservation, resource protection, restoration or density reduction, and, if located within Tier III, for the purpose of providing land for affordable housing where appropriate:

<i>Point assignment:</i>	<i>Criteria:</i>
+4	An application which includes the dedication to Monroe County of one (1) vacant, legally platted, buildable lot, zoned SC, IS, IS-D, IS-M, URM, URM-L, or CFV or, a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to Monroe County of one (1) vacant, legally platted, buildable lot, zoned SC, IS, IS-D, IS-M, URM, URM-L, or CFV or, a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+1 per 5,000 square feet of lot area	An application which includes the dedication to Monroe County of a vacant, legally platted, buildable lot of five thousand (5,000) square feet or more within a Suburban Residential District (SR) or Suburban Residential – Limited District (SR-L) in a designated Tier I area. Each additional vacant, legally platted, buildable lot of five thousand (5,000) square feet or more that meets the above requirements

	will earn points as specified.
+0.5	An application which includes the dedication to Monroe County of one (1) vacant, legally platted lot of five thousand (5,000) square feet or more within a Native Area District (NA) or Sparsely Settled District (SS) within a designated Tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half (0.5) point as specified.
+4	An application which includes dedication to Monroe County of at least one (1) acre of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
+2	On Big Pine Key and No Name Key, an application which includes dedication to Monroe County of at least one (1) acre of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
	<i>Additional requirements</i>
	<p>1. The application shall include but not be limited to the following:</p> <ul style="list-style-type: none"> <li>* An affidavit of ownership of all affected lots, parcels, acreage or land; and</li> <li>* A statutory warranty deed, that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.</li> </ul> <p>2. Lots or parcels dedicated for positive points under this paragraph shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.</p> <p>3. Only lots or parcels on Big Pine Key and No Name Key dedicated for positive points under this paragraph will allow for positive points for applications on Big Pine Key and No Name Key.</p>

- (4) *Special flood hazard area:* The following points are intended to discourage development within high risk special flood hazard zones:

<i>Point assignment:</i>	<i>Criteria:</i>
- 4	An application which proposes development within a "V" zone on the FEMA Flood Insurance Rate Map.

- (5) *Perseverance points:* The following points are intended to reward an application based upon the number of years spent in the non-residential ROGO system without receiving an allocation award.

<i>Point assignment:</i>	<i>Criteria:</i>
+1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the NROGO system up to four years.
+2	Points shall be awarded on the anniversary of the controlling date for each year over four (4) that the application remains in the NROGO system.

- (6) *Highway access:* The following points are intended to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1:

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The project eliminates an existing driveway or access-way to U.S. Highway 1.
+2	The projects does not provide for a new driveway or access-way to U.S. Highway 1.

- (7) *Landscaping and water conservation:* The following points are intended to encourage the planting of native vegetation and promote water conservation:

<i>Point assignment:</i>	<i>Criteria:</i>
+3	The project provides a total of two hundred (200) percent of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the three (3) point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation

	such as use of one hundred percent (100%) native plants for vegetation, collection and direction of rainfall to landscaped areas, or application of re-used wastewater or treated seawater for watering landscaped plants.
	<i>Additional requirements:</i>
	<p>Prior to the issuance of a certificate of occupancy for the building permit authorized by an allocation award, the applicant shall:</p> <ul style="list-style-type: none"> <li>* Post a two-year performance bond in accordance with this chapter to ensure maintenance of the native plants; and,</li> <li>* Sign an affidavit acknowledging that he is subject to code enforcement action should the native plants not be maintained.</li> </ul>

- (8) *Central wastewater treatment system availability:* The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 4	An application which development is required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the Florida Legislature.

- (9) *Employee housing:* The following points, up to a maximum of four (4) shall be assigned to allocation applications that make provisions for employee housing units:

<i>Point Assignment:</i>	<i>Criteria:</i>
+ 2 per unit	Proposes an employee housing unit(s) which is located on the parcel with the nonresidential floor space requested in the allocation application. Up to a maximum of four (4) points may be awarded.
	<i>Additional Requirements:</i>
	<ol style="list-style-type: none"> <li>1. The employee housing unit shall be required to meet the applicable provisions of section 9.5-266.</li> <li>2. The proposed employee housing unit(s) shall be included in the development approval for the nonresidential development proposed in the</li> </ol>

	allocation application.
	3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award, but shall not be issued prior to the certificate of occupancy for the employee housing units.

- (10) *Payment to land acquisition fund:* Up to two (2) points shall be awarded for a monetary payment to the County's Land Acquisition Fund for the purchase by the County of lands for conservation and retirement of development rights. Points for payment to this fund shall be assigned as follows:

<i>Point Assignment:</i>	<i>Criteria:</i>
+1 to +2	Proposes payment to the County's Land Acquisition Fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased up to a maximum of two (2) points.
	<i>Additional Requirements:</i>
	<ol style="list-style-type: none"> <li>1. The monetary value of each point shall be established annually by resolution of the board of county commissioners.</li> <li>2. The monetary value of each point shall be based upon the average market value of privately-owned, buildable, vacant, IS/URM, platted lots in Tier I divided by four (4).</li> <li>3. Payment to the County's Land Acquisition Fund shall be prior to the issuance of any building permit pursuant to the allocation award.</li> </ol>

**Section 14.** All applications in the NROGO system on the effective date of this ordinance that do not receive an allocation award in Quarter 4, ROGO Year 14, ending July 13, 2006, shall be re-scored in Quarter 1, ROGO Year 15, pursuant to the provisions of Section 13 of this ordinance as modified by the vesting provisions of Section 15.

**Section 15.** Notwithstanding the provisions of Section 13 of this ordinance, upon the effective date of this ordinance, the following vesting provision shall apply to the scoring of applications in the ROGO system prior to the effective date of this ordinance:

All applicants in the NROGO system upon the effective date of this ordinance shall be notified by regular mail within thirty (30) days from the effective date of this ordinance by the County Planning and Environmental Resources Department

of the new NROGO scoring system. In this notification, applicants shall be informed that they have thirty (30) days from the date of the notification, if they so chose, to submit a revision to their NROGO application to receive positive points through aggregation, land dedication, or payment of fees to the land acquisition fund. Within this one-time, thirty (30) day time period, applicants shall be able to revise their applications without payment of fees or a change in their controlling date upon condition that their approved building permit application is not revised to involve any further clearing of upland native habitat.

**Section 16.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 17.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

**Section 18.** This ordinance does not affect prosecution for ordinance violations committed prior to the effective date of this ordinance; does not waive any fee or penalty due or unpaid on the effective date of this ordinance; and does not affect the validity of any bond or cash deposit posted, filed, or deposited pursuant to the requirements of any ordinance.

**Section 19.** This ordinance shall be filed in the Office of the Secretary of State of Florida. This ordinance shall not become effective until July 14, 2006, but not prior to or without a notice issued by the Department of Community Affairs or Administration Commission approving the ordinance.

**Section 20.** This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

**Section 21.** The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately numbered to conform to the uniform numbering system of the Code.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida,  
at a regular meeting of said Board held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. , 2006.

Mayor Charles "Sonny" McCoy	_____
Mayor Pro Tem Murray Nelson	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____
Commissioner Dixie Spehar	_____

BOARD OF COUNTY COMMISSIONERS OF  
MONROE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Mayor/Chairperson

(SEAL)

ATTEST: DANNY KOHLAGE, CLERK

BY: \_\_\_\_\_  
Deputy Clerk

